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Study says Superfund is "extremely bad law"

BOZEMAN — Superfund toxic-waste legislation is "extremely bad law," says an economist at Montana State University.

Congress is considering whether or not to use general tax funding for the 22-year-old program, which previously was funded largely by business taxes. At the heart of the issue, says MSU economist Richard Stroup, is whether it is fair to force businesses pay for cleaning up sites they did not pollute and whether the cleanups are needed protect human health.

Stroup issued a report last fall calling the Superfund program not just bad law, but legally dangerous.

"Superfund legislation is a dangerous departure from legal principles and traditions," Mr. Stroup says. Though it was passed with the idea that the polluter pays for polluting, Stroup says that in many cases the organization charged by EPA for the clean-up has little or no relationship to the original polluters.

"About a third of the time companies that were never associated with creating the pollution are stuck with the bill," says Mr. Stroup. In addition, the Superfund

program severely limits legal appeals of Environmental Protection Agency decisions. Stroup did the analysis for the Institute for Research on the Economics of Taxation, a Washington, D.C. group, on the basis of previous research funded at PERC, a free-market think tank in Bozeman.

"Congress passed Superfund legislation in a rush after Love Canal pollution caused an emergency mentality," says Stroup. "Under that legislation, the EPA doesn't have to prove that the pollution is doing any harm and it can place the cost of cleanup on any business with a connection to the contaminated site whether or not that company contributed to the pollution. It totally ignores the degree of risk and the other laws people could use for redress of harm."

Stroup cites risk analyses that estimate that there is less than a one-percent chance that the risk of cancer from such sites is as great as the EPA estimates, and that at the majority of sites, each cleanup is expected to prevent only 0.1 cases of cancer.

"That puts the price tag at preventing one cancer case at over \$7 billion. Tax dollars bring far better health results in most other programs," says Stroup.